

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 628 of 1980

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : No

HIRABEN D/O BHIMJIBHAI VITHALDAS

Versus

SHANTILAL VALLABHDAS MADHWANI

Appearance:

MR JJ SHAH for Petitioner
MR SR DIVETIA APP for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 25/06/98

ORAL JUDGEMENT

This application arises out of maintenance proceedings initiated by the petitioner herein against respondent No. 1 under Section 125 of the Code of Criminal Procedure. Petitioner had filed Criminal Misc. Application No. 43 of 1979 in the court of learned Metropolitan Magistrate, Ahmedabad which was allowed on 31st December, 1979. The learned Magistrate ordered

respondent No. 1 to pay monthly maintenance of Rs. 150/= to the petitioner. Feeling aggrieved, the respondent no. 1 preferred Criminal Revision Application No. 24 of 1980 before the learned Additional City Civil Judge at Ahmedabad which was allowed on 17th July, 1980. The judgment and order of the learned Magistrate passed on 31st December, 1979 was set-aside. Feeling aggrieved, the petitioner has preferred the present application under Section 397 of the Criminal Procedure Code.

2. It appears that the 'Rule nisi' was issued on 19th March, 1981 and the same has not been served upon the respondent no. 1. This Court {Coram : Mr. Justice S.M Soni} on 26th July, 1996 made an order as under :-

"The petitioner to take necessary action to serve respondent no. 1 on or before 2/8/1996. In default, the petition shall stand dismissed qua the respondent no. 1."

3. In spite of the above order, petitioner does not appear to have taken any step to serve respondent no. 1. Therefore, in accordance with the above order, the petition stands dismissed qua the respondent no.1, and the respondent no. 1 has been deleted from the cause title of this petition.

4. This application is preferred essentially against the respondent no. 1 and cannot be proceeded further in absence of the respondent no. 1. Application is, therefore, dismissed. Rule is discharged.
